DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE OF CONNECTICUT

165 Capitol Avenue
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Raised Bill 877
An Act Concerning Revisions to Statutes Concerning the Department of Administrative Services

Testimony of Commissioner Melody A. Currey

Government Administration & Elections Committee
February 13, 2015

Good afternoon Senator Cassano, Representative Jutila, Senator McLachlan, Representative Smith and members of the Government Administration & Elections Committee. My name is Melody Currey, and I am the Commissioner of Administrative Services. I first want to thank the Committee for raising Senate Bill 877 on behalf of the Department of Administrative Services (DAS). This bill includes a number of small changes that DAS is seeking to our statutes to help us improve services. I will provide a brief background of each section of the bill, and will be happy to take any questions that the Committee may have.

Section 1 of the bill proposes to modify Section 4a-60g of the General Statutes. This section relates to the Supplier Diversity certification process. By way of background, DAS's Supplier Diversity Office (SDO) is responsible for certifying companies that want to do business with the state as a Small Business Enterprise (SBE) and/or a Minority Business enterprise (MBE). SBEs and MBEs are also often able to use these certifications to bid on set-aside contract opportunities with towns and municipalities. Our Supplier Diversity Office is tremendously understaffed with a significant workload - generally, the Office receives between 150 and 250 applications for SBE and MBE certifications and re-certifications each month, and we are currently able to complete the required evaluations on about half of these applications monthly. Currently, by statute, every company is certified for 2 years, after which time the company must apply to DAS for re-certification. To ensure that our agency's backlog is not harming the ability of these firms to bid on contract opportunities as MBEs and SBEs, we are respectfully requesting that DAS be allowed to extend certifications for a period not to exceed 6 months beyond the current 2-year certification period. This will enable companies that have re-certification applications in the DAS queue to continue to pursue business opportunities until their re-certification application can be reviewed and certification/denial decisions are made. This is our attempt to remain business friendly to our users, while understanding the State's budgetary constraints.

Section 2 of Senate Bill 877 is a technical change that cleans up some language that passed in 2013. In 2013, DAS worked with OPM and the legislature to clarify and streamline the statutes relating to how the state disposes of surplus real property. That effort resulted in Public Act 13-263 (now codified at Conn. Gen. Stat. § 4b-21). Section 2 of this bill clarifies a part of that Public Act which did not completely achieve the intended outcome.

The language at issue relates to the phase in the surplus property sale process whereby the Commissioner of DAS must notify and request approval from the GA&E and Finance Committees on the purchase and/or sale agreement. Each Committee has 30 days to review the proposed sale, and hold a public meeting to vote to approve or disapprove the sale. Alternatively, one or both of the Committees may decide that a meeting and vote is not necessary, and "waive" the right to convene a meeting (this is common, particularly with small parcels of real property for which the State no longer has a need). In order to expedite a very long surplus property disposition process, it was the parties' intent that, should a Committee "waive" its right to hold a meeting, in writing, prior to the expiration of 30 days, DAS could proceed to the next step in the property disposition process, without waiting for the full 30 days to expire.

Recently, the Assistant Attorney General that supports DAS's property unit has advised that the language in § 4b-21 still requires DAS to wait 30 days even if legislative committees notify us earlier, in writing, that no hearing is necessary and there is no opposition to moving forward with the sale of the property. As a result, we are proposing a technical clarification to address this matter.

Sections 3 and 6 of the bill update DAS statutes relating to our Information Technology Revolving Funds. DAS is requesting these changes to comply with recommendations made by the State Auditors.

Specifically, Section 3 updates § 4d-9 – the Technical Services Revolving Fund statute – to ensure the statute properly reflects the current use of the Fund. Since 2010, this Fund has been used not only for the purchase, installation and utilization of IT systems, but also for expenditures and revenues associated with Inmate Payphone Commission, the Telephone Billing Management System funded through the telecommunications surcharge, and statewide e-licensing and permitting issuance services. We propose to update the statute to reflect the Fund's current purpose.

Additionally, to clarify the review and accountability procedures associated with this Fund, we are seeking to update the statutory language to ensure that both DAS and OPM regularly review this Fund using generally accepted accounting principles (GAAP) and that the Fund is subject to the annual CAFR reviews conducted by the Auditors. This makes more sense than having DAS and OPM develop separate review and accountability processes.

Section 6 of the bill adopts the State Auditors' recommendation to repeal an obsolete statute, Section 4d-10 of the General Statutes. The Fund described in that statute – the

Capital Equipment Data Processing Revolving Fund – is no longer used. We have confirmed with the Office of the State Comptroller (OSC) that that this Fund has not had a balance for several years, and that there is no plan to revive this Fund. OSC does not object to DAS seeking repeal of this statute.

Section 4 of the bill updates language in a Freedom of Information statute relating to "computer-stored public records" that has been on the books for 25 years. Specifically, the provision requires that DAS conduct annual trainings with the FOI Commission to discuss access to computer-stored records. In this day and age, there is nothing special about computer-stored records; clearly we in State government create and maintain computer-stored records just as we do paper records, and public access to these records is no different than traditional paper records. DAS will continue to work with the FOI Commission on their training programs, but we believe that the FOI Commission should be in control of the topics they believe are necessary and important for their annual trainings, and not be mandated by statute to invite DAS where they do not believe doing so will add value. We have discussed this proposal with the FOIC, and they agree with and support this proposed change.

Sections 5 and 6 of the bill propose to repeal C.G.S. § 17b-739. This statute – which has been on the books since 1989, but has just recently come to DAS's attention – states that whenever DAS constructs, acquires, or is gifted space that accommodates 300 or more state employees, or makes alterations to a state facility that affects at least 25% of the square footage, DAS must notify the Department of Early Childhood to assess child care service needs. If it is determined that there is a need for child care services for employees in the building, the statute **requires** that DAS set aside adequate space for a child care facility in the building.

Our research indicates that this statute has not been utilized since it was passed in 1989. Furthermore, state and federal guidelines regarding the best practices and recommendations for locating child care facilities indicate that it is **not practical or advisable** to co-locate child care facilities in government office buildings. Specifically, professionals in this field point out that government facilities are not sensible because of the required inside and outside space accommodations needed for child care facilities, required standards for child safety and security measures, required standards relating to proximity from traffic, and because government offices do not create the most preferred and desirable environment for children.

While the federal government does not impose construction design mandates on states, they have done the most comprehensive research on government facilities as a result of the Oklahoma Federal Building Bombing, 9/11, and other incidents impacting Homeland Security. The federal government has greater requirements for security if a child care facility is located within a building that is federally owned, and has moved to avoid locating child care facilities in federal buildings.

Finally, I should note that, now that DAS is aware of this statute, if repeal efforts are not successful and we are required to comply with the provisions of § 17b-739, we would be

adding significant cost to our state building renovation projects and we would be impeded in our efforts to maximize state-owned facilities for needed office space.

I again thank the Committee for raising these statutory changes on behalf of DAS, and hope that the Committee will support this bill going forward.

I would also like to make a plea and respectfully ask that the Committee favorably report this bill out with Substitute Language that includes the legislative proposals that DAS sent to the Committee on January 15th. These provisions make changes to DAS statutes to help the agency comply with statutory requirements, to achieve efficiencies and to ensure that we are meeting the needs of state agencies. I understand that, since these DAS statutes relate to our responsibilities to manage state job exams, and to administer state employees' workers' compensation claims, that the Committee viewed these sections as outside of the jurisdiction of GA&E, and thought they be better raised by the Labor Committee. I respectfully offer, however, that there is precedence for committees of cognizance to take up in whole agency omnibus bills, or other omnibus bills (i.e. the Act to Implement Recommendations of the Committee on Enhancing Agency Outcomes; Agency Merger Bills) - and then refer the bills to other committees for their consideration as necessary once the bill has been referred to the floor.

I am attaching the other provisions we requested to this testimony, and hope that you will consider voting this Bill out favorably with Substitute Language that includes these provisions.

Thank you very much for the opportunity to testify, and I am happy to answer any questions that you may have.

Additional Sections that DAS Requests be Added to SB 877

Section 5-217 of the general statutes is repealed, and the following is substituted in lieu thereof. (*Effective July 1, 2015*):

The Commissioner of Administrative Services shall specify, at the time any candidate list is promulgated, the period during which such list shall remain in force. In no case shall a candidate list remain in force for a period of less than three months or more than one year, provided such period may be extended not more than **two years** [one year] by the commissioner as appropriate based upon the needs of the state, except that **[extensions concerning]** candidate lists for continuous recruitment examinations shall be based on the needs of the service.

Section 5-219 of the general statutes is repealed, and the following is substituted in lieu thereof. (*Effective July 1, 2015*):

(a) Examinations shall be in such form and of such character and shall relate to such matters as will fairly test and determine the qualifications, fitness and ability of the persons tested to perform the duties of the class or position to which they seek appointment. Examinations shall be formulated in cooperation with agencies appointing specific classes of employees and shall be competitive and open to all persons who may be lawfully appointed to any position in the class for which examinations are held, with such limitations as to age, residence, health, habits, character, sex and qualifications as are considered desirable by the Commissioner of Administrative Services and as are specified in the public announcement of the examination, provided no such limitation shall be made as to age or sex except in the case of a bona fide occupational qualification or need. Formal education requirements may be considered as a condition for the taking of such examinations. Possession of a professional license or degree, or satisfactory completion of an accreditation, certificate or licensure program may serve as the sole basis for appointment, provided such credentials are a mandatory requirement for employment in a position. Examinations may take the form of written or oral tests, demonstration of skill or physical ability, experience and training evaluation, or in the case of promotional examinations, evaluation of prior performance, or any other assessment device or technique deemed appropriate to measure the knowledge, skills or abilities required to successfully perform the duties of the job. All persons competing for placement on any one candidate list shall be administered the same or equivalent forms of the same examination or examination phases, except as necessary to comply with the federal Americans with Disabilities Act and section 4-61nn, and be required to achieve passing scores on each successive phase and for the examination as a whole in order to remain in competition. The provisions of this section shall be the sole determinant for qualification and no other examination shall be permitted by any agency head to further qualify persons seeking appointment except as authorized by the commissioner.

(b) The commissioner may charge any person not employed by the state a reasonable fee for taking an examination, provided such fee shall not exceed the cost of developing and administering such examination. The commissioner may waive any such fee for any person who applies, in the form and manner prescribed by the commissioner, for a waiver of such fee and demonstrates that he or she is financially unable to pay such fee. **Before implementing any fees permitted by this subsection, the** [The] commissioner shall adopt regulations, in accordance with the provisions of chapter 54**[, to carry out the purposes of this subsection].**

Section 5-227b of the general statutes is repealed, and the following is substituted in lieu thereof. (*Effective July 1, 2015*):

(a) Examinations for positions may be waived by the Commissioner of Administrative Services under any of the following conditions: (1) Where the possession of a professional license, degree or satisfactory completion of an accreditation, certificate or licensure program is a mandatory requirement for appointment or promotion to a position in state service; (2) where the appointment or promotion to a job classification that is utilized by a single state agency is limited in number and has few vacancies in the professional or managerial series; (3) when the qualifications for a position within the managerial class are so specialized or unique that an examination for a general job classification would not result in a list of candidates possessing such qualifications and would not be cost effective; or (4) when the number of applicants meeting the minimum qualifications for admission to an announced promotional examination is five or less.

(b) If the commissioner has granted a waiver of examination in accordance with subsection (a) of this section, the commissioner may delegate to a department head the authority to recruit for such position.

(c) For positions waived pursuant to subdivisions (2), (3), and (4) of subsection (a) of this section, the department head shall submit a delegation plan to the commissioner, and the commissioner may grant a [A] full or partial delegation **[may be granted]** to the department head**, which [under a delegation plan that]** shall be approved **[in advance]** by the commissioner **before the department undertakes its recruitment efforts.** Any such delegation plan shall (1) include standards for the posting of positions with a minimum time period of not less than one week; (2) specify the manner in which such notice shall be posted; and (3) specify the procedures for accepting and rejecting applicants based upon the minimum required qualifications. Where the department head has identified a candidate suitable for appointment and prior to making a formal or informal offer of employment, such department head shall submit the application, any supporting documentation for such candidate and the applications of such

additional candidates such department head deems eligible for appointment to the commissioner for certification that such preferred candidate has met the minimum qualifications of experience and training as set forth in the job specification. Once written certification is granted, the department head may make an offer of employment to the candidate certified by the commissioner.

(d) [(c)] Any or all [All] recruitments performed by a department head pursuant to this section may [shall] be subject to post audit by the commissioner.

Section 31-284a of the general statutes is repealed, and the following is substituted in lieu thereof. (*Effective July 1, 2015*):

(a) Notwithstanding the provisions of sections 4a-19 and 4a-20 to the contrary, the Commissioner of Administrative Services shall solicit proposals from any management firm engaged in the business of administering workers' compensation claims, or from any authorized mutual insurance company or stock company or subsidiary thereof writing workers' compensation or employer's liability insurance in this state, for the purposes of administering the workers' compensation claims filed against the state, or of insuring the state's full liability under workers' compensation and administering such claims. The commissioner may, at said commissioner's discretion, reject any or all of such proposals if they are deemed to be inadequate to effectively serve the needs of the state concerning workers' compensation.

(b) The Commissioner of Administrative Services may exclude from participation in the state workers' compensation managed care program any medical provider found, through a systematic program of utilization review, to exceed generally accepted standards of the scope, duration or intensity of services rendered to patients with similar diagnostic characteristics. **[The state shall not make any payment to a facility owned in whole or in part by the referring practitioner.]**

(c) The Commissioner of Administrative Services shall have sole responsibility for establishing procedures for all executive branch agencies participating in the state of Connecticut workers' compensation program, except that all mandatory subjects of collective bargaining pertaining to modified or alternative duty shall continue to be governed by the provisions of chapter 68.